

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building  
100 Maryland Avenue  
Rockville, Maryland 20850  
240-777-6600

[www.montgomerycountymd.gov/content/council/boa/index.asp](http://www.montgomerycountymd.gov/content/council/boa/index.asp)

**Case No. A-6272**

**APPEAL OF JACQUELYN WHEELER**

**OPINION OF THE BOARD**

(Hearing held February 4, 2009.

Effective Date of Opinion: February 12, 2009.)

Case No. A-6272 is an administrative appeal filed September 4, 2008, by Jacquelyn Wheeler (the "Appellant"). The Appellant charges error on the part of Montgomery County's Department of Permitting Services ("DPS") in issuing its August 6, 2008, Notice of Violation to Sheridan Rehabilitative and Wellness Centers, Inc. ("Sheridan"), which stated that Sheridan had failed to register a home health practitioner's office, and ordered as corrective action that it (1) register the home health practitioner's office with DPS, and (2) obtain a Use and Occupancy permit or discontinue using the property located at 7911 Rocton Avenue, Chevy Chase, Maryland 20815 in the R-90 zone (the "Property") for that purpose.

Pursuant to Section 59-A-4.4 of the Montgomery County Zoning Ordinance, codified as Chapter 59 of the Montgomery County Code (the "Zoning Ordinance"), the Board held a public hearing on the appeal on February 4, 2009. The Appellant and Sheridan were represented by Sheldon P. Schuman, Esquire. Assistant County Attorney Malcolm Spicer represented Montgomery County's Department of Permitting Services. The Rollingwood Citizens Association intervened in the proceedings.

At the outset of the hearing, the County moved to dismiss the appeal on grounds that the Appellant, as an individual, could not challenge this Notice of Violation, which had been issued to a corporation. The Appellant then testified that she is the President of Sheridan Rehabilitative and Wellness Centers, Inc., and is one of three shareholders in the company. Appellant's prehearing submission indicates that she resides at the subject Property. See Exhibit 11. On a motion by Vice Chair David Perdue, seconded by Member Stanley Boyd, with Chair Catherine G. Titus and Member Walter Booth in agreement, and Member Carolyn Shawaker opposed, the Board voted to deny the motion to dismiss.

The County then stated that it was withdrawing the August 6, 2008 Notice of Violation. The Board finds that this withdrawal eliminates the grounds for this appeal and renders it moot. Rule 1.6(d) of the Board of Appeals Rules of Procedure gives the Board the

discretion to refund all or a portion of the filing fee when an action of the County moots an issue pending before the Board. Therefore, on a motion by Vice Chair David Perdue, seconded by Member Walter Booth, with Chair Catherine G. Titus, Member Carolyn Shawaker, and Member Stanley Boyd in agreement:

**BE IT RESOLVED** by the Board of Appeals for Montgomery County, Maryland, that Case No. A-6272 is hereby dismissed due to the withdrawal of the underlying Notice of Violation; and

**BE IT FURTHER RESOLVED** by the Board of Appeals for Montgomery County, Maryland, that the filing fee of \$200 shall be refunded to the Appellant.

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Catherine G. Titus  
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
This 12<sup>th</sup> day of February, 2009.

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Katherine Freeman  
Executive Director

**NOTE:**

Any request for rehearing or reconsideration must be filed within ten (10) days after the date the Opinion is mailed and entered in the Opinion Book (see Section 2A-10(f) of the County Code).

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure (see Section 2-114 of the County Code).